

18. Hair care products, skin care products, and body care products are customarily marketed through the same and overlapping channels of trade.

19. The products marketed and sold under Opposer's registered trademarks, Opposer's family of "SEXY" marks, and through Opposer's "Sexy Hair" and "Sexy Hair Concepts" business, and the products intended to be sold under Applicant's "SEXY BODY FOAM" mark, are such as would be sold to the same and to overlapping classes of purchasers.

20. Applicant's "SEXY BODY FOAM" trademark as applied to the goods identified in the application herein opposed so resembles Opposer's registered trademarks, Opposer's family of "SEXY" marks as applied to Opposer's products, and Opposer's "Sexy Hair" and "Sexy Hair Concepts" names as used in connection with Opposer's business, that it is likely to cause confusion, mistake, and/or deception.

21. If Applicant is permitted to register "SEXY BODY FOAM" for the goods set forth in the application, confusion of the relevant trade and public is likely to result, which will damage and injure Opposer.

22. On seeing Applicant's "SEXY BODY FOAM" mark used in connection with Applicant's body care preparations, purchasers and potential purchasers are likely to believe in error that such goods are offered by or in association with or under license from Opposer or that Opposer and Applicant are affiliated.

23. Any defect, objection to, or fault found with Applicant's body care preparations sold under its mark "SEXY BODY FOAM" would necessarily reflect on and seriously injure the reputation that Opposer has established for its goods and business.

24. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark for the goods identified in the registration. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Sexy Hair Concepts LLC prays that registration of the mark of Application Serial No. 78/422,467 be refused and that this opposition be sustained.

A duplicate copy of this Notice of Opposition is enclosed herewith.

The required fee of \$300 may be charged to Deposit Account No. 02-0755 and any overpayment may be credited to this account.

Respectfully submitted,

Dated: 9/28/05

By: Roberta Jacobs-Meadway
Roberta Jacobs-Meadway
Patricia G. Cramer
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
1735 Market Street, 51st Floor
Philadelphia, Pennsylvania 19103-7599
(215) 864-8201

ATTORNEYS FOR OPPOSER

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

kk

Mailed: February 10, 2006

Opposition No. 91166718

Sexy Hair Concepts, LLC

v.

WTFN, Inc.

Answer was due on November 8, 2005. A review of the record shows that an answer has not been filed.

This case now comes up for consideration of opposer's motion, filed November 17, 2005, for default judgment against applicant for failure to file an answer. The motion is uncontested.¹

Inasmuch as applicant failed to file an answer² in this case, and failed to respond to opposer's motion in any manner, the motion for default judgment is granted. See Trademark Rule 2.127(a). Accordingly, judgment is hereby

¹ If a defendant fails to file an answer to a complaint during the time allowed therefor, the Board, on its own initiative, may issue a notice of default allowing the defendant time to show cause why default judgment should not be entered against it. The issue of whether default judgment should be entered against a defendant for failure to file an answer may also be raised by means of a motion filed by the party in the position of plaintiff. In such cases, the motion may serve as a substitute for the Board's issuance of a notice of default.

² It is noted that a notice of default issued in this proceeding. The Board apologizes in that this order was unnecessary.

SHINY 0588

entered against applicant, the notice of opposition is sustained, and registration to applicant is refused. See Fed. R. Civ. P. 55 and Trademark Rule 2.127(a).

***By the Trademark Trial
and Appeal Board***

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
TRANSMITTED ELECTRONICALLY TO THE COMMISSIONER FOR
TRADEMARKS - <http://esta.uspto.gov/filing-type.jsp>

By: Valerie J. Moeman

DATE: 9/28/05

BOX TTAB FEE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

SEXY HAIR CONCEPTS LLC,

Opposer,

v.

VIRGEL M. ALLEN

Applicant.

Opposition No. 91166758

NOTICE OF OPPOSITION

Honorable Commissioner for Trademarks
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

Dear Madam:

In the matter of Trademark Application Serial No. 78/453,672 for the mark "SEXY DAME" filed July 20, 2004 and published for opposition in the Official Gazette on June 21, 2005 at page TM 224.

Sexy Hair Concepts LLC, a California limited liability company having a place of business at 9232 Eton Avenue, Chatsworth, California 91311 ("Opposer"), believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes the same. The grounds for opposition are as follows:

1. Virgel M. Allen, a United States individual ("Applicant"), seeks to register "SEXY DAME" as a trademark for use in connection with hair care products, namely shampoos, conditioners, oil and chemical hair treatments, moisturizers, coloring preparations, relaxers,

permanents, hair sprays and hair-styling preparations, as evidenced by the publication of said mark in the Official Gazette on June 21, 2005 at page TM 224.

2. The application herein opposed was filed July 20, 2004 and the basis for the filing in Class 3 is intent to use. Applicant claims no date earlier than July 20, 2004 for the purpose of claiming priority for goods in Class 3.

3. Opposer is and has been engaged in the development, manufacture and sale of hair care products, and related goods and has built a successful business in connection therewith.

4. Since at least as early as June 15, 1998, Opposer, itself and through its predecessor in interest (collectively, "Opposer") has used "SEXY" and "SEXY HAIR" as the dominant element of its names and marks for hair care preparations, including shampoo, conditioner, gels, sprays, color, dyes, rinses and mousses. Since at least as early as December 21, 1998, Opposer has used such names and marks in commerce in the United States for such goods.

5. The nature and extent of Opposer's use of its "SEXY" and "SEXY HAIR" names and marks can be seen at its website, www.sexyhairconcepts.com.

6. Opposer has taken steps to protect the "SEXY HAIR" mark and has secured U.S. Trademark Registration No. 2,403,396 for such mark for hair care preparations as identified therein. Registration No. 2,403,396 is valid and subsisting. A copy of the pertinent information about such registration from the PTO database is attached as Exhibit A.

7. Since 1998, Opposer has taken steps to develop a family of "SEXY" marks for hair care preparations, including: "SEXY HAIR CONCEPTS," "HEALTHY SEXY HAIR," "BIG SEXY HAIR," "CURLY SEXY HAIR," "SHORT SEXY HAIR," and "SEXY HAIR (Design)," among others.

8. Use of the “SEXY” and “SEXY HAIR” names and marks by Opposer has been continuous and commercially significant.

9. Opposer has since prior to July 20, 2004 used “Sexy Hair Concepts” and “Sexy Hair” as trade names as well as marks in connection with its business.

10. Opposer’s registered trademark “SEXY HAIR,” Opposer’s family of “SEXY” marks, and the “Sexy Hair” and “Sexy Hair Concepts” names are inherently distinctive as applied to Opposer’s products and business.

11. By virtue of Opposer’s continuous use in commerce of its registered “SEXY HAIR” trademark and its family of “SEXY” marks and the “Sexy Hair” and “Sexy Hair Concepts” names in connection with such goods and business, such goods and business have become favorably known to the relevant trade and public under such marks and names.

12. As Opposer is the owner of a U.S. trademark registration for “SEXY HAIR,” priority is not in issue.

13. In the application herein opposed, there are no restrictions on trade channels, so it must be assumed that the goods in Class 3 identified in the application will travel through all trade channels appropriate for goods of that type.

14. Applicant’s mark for hair care products is confusingly similar to Opposer’s registered “SEXY HAIR” trademarks and also to the family of “SEXY” marks established by Opposer, and to Opposer’s “Sexy Hair” and “Sexy Hair Concepts” trade names.

15. Each of Opposer’s marks and names, and Applicant’s mark, employ the identical term—“SEXY,” as the dominant or a dominant element.

16. The goods of Opposer and the goods of Applicant are essentially the same (hair care products), or otherwise closely related.

17. Hair care products such as are sold by Opposer and as are identified in the application herein opposed are customarily marketed through the same and overlapping channels of trade.

18. The products marketed and sold under Opposer's registered "SEXY HAIR," trademark, Opposer's family of "SEXY" marks, and through Opposer's "Sexy Hair" and "Sexy Hair Concepts" business, and the hair care products intended to be sold under Applicant's "SEXY DAME" mark, are such as would be sold to the same and to overlapping classes of purchasers.

19. Applicant's "SEXY DAME" trademark as applied to the Class 3 goods identified in the application herein opposed so resembles Opposer's registered "SEXY HAIR" trademark, Opposer's family of "SEXY" marks as applied to Opposer's products, and Opposer's "Sexy Hair" and "Sexy Hair Concepts" names as used in connection with Opposer's business, that it is likely to cause confusion, mistake, and/or deception.

20. If Applicant is permitted to register "SEXY DAME" for the hair care products set forth in the application, confusion of the relevant trade and public is likely to result, which will damage and injure Opposer.

21. On seeing Applicant's "SEXY DAME" mark used in connection with Applicant's hair care products, purchasers and potential purchasers are likely to believe in error that such goods are offered by or in association with or under license from Opposer or that Opposer and Applicant are affiliated.

22. Any defect, objection to, or fault found with Applicant's hair care products sold under its mark "SEXY DAME" would necessarily reflect on and seriously injure the reputation that Opposer has established for its goods and business.

23. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark for the goods identified in the registration. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Sexy Hair Concepts LLC prays that registration of the mark of Application Serial No. 78/453,672 be refused and that this opposition be sustained.

A duplicate copy of this Notice of Opposition is enclosed herewith.

The required fee of \$300.00 may be charged to Deposit Account No. 02-0755 and any overpayment may be credited to this account.

Respectfully submitted,

Dated: September 28, 2005

By: Roberta Jacobs-Meadway
Roberta Jacobs-Meadway
Patricia G. Cramer
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
1735 Market Street, 51st Floor
Philadelphia, Pennsylvania 19103-7599
(215) 864-8201

ATTORNEYS FOR OPPOSER

EXHIBIT A

SHINY 0595

Latest Status Info

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2005-09-27 16:54:35 ET

Serial Number: 75634213 Assignment Information

Registration Number: 2403396 Assignment Information

Mark (words only): SEXY HAIR

Standard Character claim: No

Current Status: Registered.

Date of Status: 2000-11-14

Filing Date: 1999-02-05

Transformed into a National Application: No

Registration Date: 2000-11-14

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 900 -File Repository (Franconia)

Date In Location: 2004-08-13

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Ecoly International, Inc.

Address:

Ecoly International, Inc.
9232 Eton Avenue
Chatsworth, CA 91311
United States

Legal Entity Type: Corporation

State or Country of Incorporation: California

GOODS AND/OR SERVICES

International Class: 003

Hair care products for men, women and children, namely hair shampoos, hair conditioners, hair lotions, hair cremes, hair gels, hair sprays, hair color, hair dyes, hair rinses, hair mousse

First Use Date: 1998-06-15

First Use in Commerce Date: 1998-12-21

SHINY 0596

<http://tarr.uspto.gov/servlet/tarr?regser=registration&entry=2403396&action=Request+Status>

9/27/2005

Basis: 1(a)

ADDITIONAL INFORMATION

Disclaimer: "HAIR"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2000-11-14 - Registered - Principal Register

2000-08-22 - Published for opposition

2000-07-21 - Notice of publication

2000-06-03 - Approved for Pub - Principal Register (Initial exam)

1999-12-14 - Letter of suspension mailed

1999-10-18 - Communication received from applicant

1999-08-17 - Non-final action mailed

1999-08-04 - Case file assigned to examining attorney

1999-07-30 - Case file assigned to examining attorney

CORRESPONDENCE INFORMATION

Correspondent

Roberta Jacobs-Meadway (Attorney of record)

ROBERTA JACOBS-MEADWAY
AKIN GUMP STRAUSS HAUER & FELD LLP
ONE COMMERCE SQ STE 2200
2005 MARKET ST
PHILADELPHIA PA 19103

SHINY 0597

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

am

Mailed: January 3, 2006

Opposition No. 91166758

Sexy Hair Concepts, LLC

v.

Allen, Virgel M.

Answer was due on November 13, 2005. A review of the record shows that an answer has not been filed.

This case now comes up for consideration of opposer's motion, filed November 23, 2005, for default judgment against applicant for failure to file an answer. The motion is uncontested.¹

Inasmuch as applicant failed to file an answer in this case, and failed to respond to opposer's motion in any manner, the motion for default judgment is granted. See Trademark Rule 2.127(a). Accordingly, judgment is hereby

¹ If a defendant fails to file an answer to a complaint during the time allowed therefor, the Board, on its own initiative, may issue a notice of default allowing the defendant time to show cause why default judgment should not be entered against it. The issue of whether default judgment should be entered against a defendant for failure to file an answer may also be raised by means of a motion filed by the party in the position of plaintiff. In such cases, the motion may serve as a substitute for the Board's issuance of a notice of default.

SHINY 0598

entered against applicant, the notice of opposition is sustained, and registration to applicant is refused. See Fed. R. Civ. P. 55 and Trademark Rule 2.127(a).

***By the Trademark Trial
and Appeal Board***

LAW OFFICES

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

1735 MARKET STREET, 51ST FLOOR
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DIRECT DIAL: 215-864-8201
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JACOBSMEADWAYR@BALLARDSPAHR.COM

January 19, 2006

via Telecopier and Air Mail

Professor Werner Gramm
Gramm, Lins & Partner
Theodor-Heuss-Str. 1
38122 Braunschweig FED REP
GERMANY

Re: Bliss & Partner Limited Partnership
U.S. Trademark Application SN 79/016,547
"TOTALLY SEXY"

Dear Professor Gramm:

This office represents Sexy Hair Concepts LLC of Chatsworth CA (Sexy Hair) in connection with certain trademark and unfair competition matters.

Sexy Hair has since 1998 made continuous and extensive use of SEXY and SEXY Hair as names and marks and as components of names and marks for hair care preparations and related services and programs in the United States and other jurisdictions. The nature and extent of the business of Sexy Hair may be seen at the Company's website, www.sexyhairconcepts.com.

Sexy Hair has taken steps to protect its SEXY and SEXY HAIR names and marks. A print out of the pertinent information concerning Sexy Hair's federal trademark registrations is attached, as is a printout identifying the various proceedings instituted wherein Sexy Hair has opposed issuance of registrations for marks which contain or comprise the term SEXY for hair care preparations.

You will appreciate that the SEXY and SEXY HAIR names and marks are valuable assets of Sexy Hair, and it is the policy and practice of Sexy Hair to enforce its trademark rights diligently.

Professor Werner Gramm

January 19, 2006

Page 2

It has come to our attention that you have filed on behalf of Bliss & Partner Limited Partnership an application for registration of TOTALLY SEXY, serial no. 79/016,547 with a priority claim of September 17, 2004. This application includes, inter alia, goods in International Class 3, including hair lotions, shampoos, and "hair care preparations." These goods are essentially the same as the goods Sexy Hair has long sold under its various SEXY and SEXY HAIR marks. In the circumstances, any use and registration of TOTALLY SEXY would appear likely to cause confusion as to the source or sponsorship of the products, and as to the affiliation between your client and Sexy Hair.

In the circumstances, we request that your client's application be amended to delete the goods in International Class 3 and that your client provide to us its written commitment that it will not offer for sale or sell any hair care preparations under the mark TOTALLY SEXY or any other mark that contains or comprises the term SEXY.

Sexy Hair reserves the right to take such further action as may be required if an amicable resolution is not achieved and the mark of the application is accepted for publication and published for opposition, or use of the mark for hair care preparations commences.

We look to hear from you with respect to your client's intentions in this matter at your early convenience.

Very truly yours,


Roberta Jacobs-Meadway

RJM/vlm

cc: Mr. Mark Stiller

HOFFMANN & BARON, LLP

ATTORNEYS AT LAW

1055 PARSIPPANY BLVD.

PARSIPPANY, NEW JERSEY 07054-1272

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SCIENTIFIC ADVISOR
DANIEL A. SCOLA, SR., Ph.D.

* NOT ADMITTED IN NJ
† SENIOR ATTORNEY

CHARLES R. HOFFMANN*
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DANIEL A. SCOLA, JR.
SALVATORE J. ABBRUZZESE
ALAN M. SACK

IRVING N. FEIT
R. GLENN SCHROEDER*
GLENN T. HENNEBERGER*
ANTHONY E. BENNETT
LUDOMIR A. BUDZYN

STEVEN T. ZUSCHLAG†

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D.W. DARREN KANG
NICHOLE E. MARTIAK
LAUREN T. EMR*
LINDA D. CHIN*

PATENT AGENTS

GLORIA K. SZAKIEL, Ph.D. EDNA I. GERGEL, Ph.D.

January 26, 2007
VIA FACSIMILE
CONFIRMATION VIA MAIL

Roberta Jacobs-Meadway, Esq.
Ballard, Spahr, Andrews & Ingersoll, LLP
1735 Market Street
51st Floor
Philadelphia, PA 19103-7599

Re: U.S. Trademark Application No. 79/016,547
TOTALLY SEXY
Your File: 049461
Our Docket: 753-64

Dear Ms. Jacobs-Meadway:

Further to our letter of June 22, 2006, we have not received a response from you in regards to our proposals. Our client is interested in attempting to reach a mutually acceptable agreement with Sexy Hair Concepts, LLC regarding this matter.

The Examining Attorney for the subject application did not see any likelihood of confusion between the "TOTALLY SEXY" mark and any of the "SEXY HAIR" marks. However, our client is willing to undertake several different restrictions to avoid any possible confusion between the source of goods bearing the "TOTALLY SEXY" mark and the "SEXY HAIR" marks.

Our client would be willing to link the "TOTALLY SEXY" mark with the corporate name (Tally Weijl) on their product label for hair care preparations or restrict sales of hair care preparations bearing the name "TOTALLY SEXY" to different channels of trade, e.g., in specific Tally Weijl boutiques. We have some additional suggestions prepared to discuss with you should the aforementioned restrictions be unacceptable to your client.

RECEIVED

JAN 31 2007

R. JACOBS-MEADWAY

SHINY 0602

Roberta Jacobs-Meadway, Esq.
Ballard, Spahr, Andrews & Ingersoll, LLP
January 26, 2007
Page 2

We are interested in reaching an amicable agreement and look forward to hearing from you accordingly.

Sincerely,

A handwritten signature in black ink that reads "Nichole E. Martiak". The script is cursive and fluid, with the first name "Nichole" and last name "Martiak" clearly legible.

Nichole E. Martiak

NEM/kg

SHINY 0603

LAW OFFICES

BALLARD SPAHR ANDREWS & INGERSOLL, LLP

1735 MARKET STREET, 51ST FLOOR
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WASHINGTON, DC
WILMINGTON, DE

ROBERTA JACOBS-MEADWAY
DIRECT DIAL: 215-864-8201
PERSONAL FAX: 215-864-9950
JACOBSMEADWAYR@BALLARDSPAHR.COM

February 2, 2007

*via Email nmartiak@hoffmanbaron.com
and First Class Mail*

Nichole E. Martiak, Esquire
Hoffman & Baron, LLP
1055 Parsippany Blvd.
Parsippany, NJ 07054-1272

Re: Sexy Hair Concepts LLC
and Bliss & Partner Limited Partnership
Your Reference: 753-64 / Our file: 049461

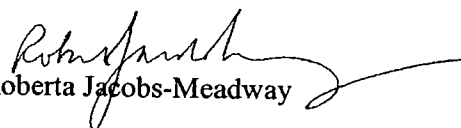
Dear Ms. Martiak:

This has reference to your letter of January 26, received in our office on
February 1.

We have reviewed the matter with Sexy Hair Concepts LLC and see no basis for a
consent to registration of TOTALLY SEXY as a mark for hair care preparations as set forth in
Application Serial No. 79016547.

Should the mark be published for such goods, a notice of opposition will be
lodged.

Very truly yours,


Roberta Jacobs-Meadway

RJM/vlm

cc: Sexy Hair Concepts LLC

SHINY 0604

LAW OFFICES
BALLARD SPAHR ANDREWS & INGERSOLL, LLP

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DIRECT DIAL: 215-864-8201
PERSONAL FAX: 215-864-9950
JACOBSMEADWAYR@BALLARDSPAHR.COM

March 7, 2007

*via Email nmartiak@hoffmanbaron.com
and First Class Mail*

Nichole E. Martiak, Esquire
Hoffman & Baron, LLP
1055 Parsippany Blvd.
Parsippany, NJ 07054-1272

Re: Sexy Hair Concepts LLC
and Bliss & Partner Limited Partnership
Your Reference: 753-64 / Our file: 049461

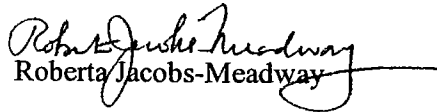
Dear Ms. Martiak:

This has reference to my letter of February 2, 2007. I note the Supplemental Amendment filed February 20, 2007 deleting from the application various of the hair care preparations but retaining in the Class 3 identification "hair lotions".

If this was an oversight, I ask that it be corrected and "hair lotions" be deleted from the identification of goods in application serial no. 79/016,547.

If there was no oversight, and the application is published with hair lotions in the identification of goods, an opposition will be lodged.

Very truly yours,


Roberta Jacobs-Meadway

RJM/vlm

cc: Sexy Hair Concepts LLC

SHINY 0605

TRADEMARK

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Bliss & Partner Limited Partnership
Trademark Law Office: 117
Serial No.: 79/016,547
Filed: March 16, 2005
Examining Attorney: Florentina Blandu
International Class: 3, 14, 18, 25, 35, 42
Mark: TOTALLY SEXY
Docket: 753-64
Dated: March 9, 2007

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, P.O. Box 1451, Arlington, VA 22313-1451.

Date: March 9, 2007

Signature: Barbara Thomas



Commissioner for Trademarks
P.O. Box 1451
Alexandria, VA 22313-1451

SUPPLEMENTAL AMENDMENT

Madam:

With reference to the above-identified application, please enter the following amendments:



03-14-2007

U.S. Patent & TMO/TM Mail Rpt Dt. #30

SHINY 0606

Application No: 79/016,547
Docket No: 753-64
Supplemental Amendment dated March 9, 2007
Page 2

IN THE IDENTIFICATION OF GOODS AND/OR SERVICES:

Please replace the current description of goods and/or services for international class 3 clause with:

--Soaps, namely astringent for face; perfumery, namely, cologne perfume, eau de toilette, fragrances; essential oils for personal use; cosmetics; dentifrices; creams, namely skin creams, body creams, cold creams, cleansing creams, shaving creams; lotions, namely baby lotions, body lotions, shaving lotions, suntan lotions; exfoliants for skin; makeup, namely lipstick, lip gloss, mascara, foundation makeup, eyebrow pencils, nail varnish for cosmetic purposes; bath and shower gel, namely, bath oils, bath salts.--

SHINY 0607

Application No: 79/016,547

Docket No: 753-64

Supplemental Amendment dated March 9, 2007

Page 3

REMARKS

Entry of this amendment is respectfully requested.

This amendment is a supplement to an amendment filed February 20, 2007. In particular, "hair lotions" were deleted from the current description of goods and/or services for international class 3. This application was filed on March 16, 2005 and it is respectfully submitted that these amendments are proper.

Favorable action is earnestly solicited. If there are any questions or if additional information is required, the Examining Attorney is respectfully requested to contact Applicant's attorney at the telephone number listed below.

Respectfully submitted,

Nichole E. Martiak

Nichole E. Martiak
Attorney for Applicant(s)

HOFFMANN & BARON, LLP
6900 Jericho Turnpike
Syosset, New York 11791
(973) 331-1700

SHINY 0608

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2008-03-17 14:01:54 ET

Serial Number: 79016547 Assignment Information Trademark Document Retrieval

Registration Number: (NOT AVAILABLE)

Mark

TOTALLY SEXY

(words only): TOTALLY SEXY

Standard Character claim: No

Current Status: Application has been published for opposition.

Date of Status: 2008-03-11

Filing Date: 2005-03-16

The Information will be/was published in the Official Gazette on 2008-03-11

Transformed into a National Application: No

Registration Date: (DATE NOT AVAILABLE)

Register: Principal

Law Office Assigned: LAW OFFICE 117

Attorney Assigned:
BLANDU FLORENTINA

Current Location: 650 -Publication And Issue Section

Date In Location: 2008-02-05

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. Bliss & Partner Limited Partnership

Address:

Bliss & Partner Limited Partnership
40 Melville Street
Edinburgh EH3 7TW

SHINY 0609

United Kingdom

Legal Entity Type: Corporation

State or Country of Incorporation: United Kingdom

GOODS AND/OR SERVICES

International Class: 003

Class Status: Active

Soaps, namely astringent for face; perfumery, namely, cologne perfume, eau de toilette, fragrances, essential oils for personal use, cosmetics; dentifrices; creams, namely, skin creams, body creams, cold creams, cleansing creams, shaving creams; lotions, namely baby lotions, body lotions, shaving lotions, suntan lotions; exfoliants for skin; makeup, namely lipstick, lip gloss, mascara, foundation makeup, eyebrow pencils, nail varnish for cosmetic purposes; bath and shower gel, namely, bath oils, bath salts

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 014

Class Status: Active

Precious metals and their alloys and goods in precious metals or coated therewith, not included in other classes, namely gold alloy ingots, gold plated articles, namely emblems, figures, hat decorations, objects of art, cuff links, key fobs of precious metal, jewel pins, decoration for footwear, statues, cases for watches, vases; beaten gold or gold foil; articles of unrefined gold, namely, emblems, figures, hat decorations, objects of art, cuff links, key fobs of precious metal, jewel pins, decoration for footwear, statues, cases for watches, vases; gold ingots, plated articles of gold alloy, namely, emblems, figures, hat decorations, objects of art, cuff links, key fobs of precious metal, jewel pins, decoration for footwear, statues, cases for watches, vases, nickel silvers, rhodium, ruthenium, castings of platinum or platinum alloy; platinum foil; articles of unrefined platinum, namely emblems, figures, hat decorations, objects of art, cuff links, key fobs of precious metal, jewel pins, decoration for footwear, statues, cases for watches, vases, platinum ingots, platinum alloy ingots, aluminum gold, osmium, castings of silver or silver alloy, silver foil or leaf; articles of unrefined silver, namely emblems, figures, hat decorations, objects of art, cuff links, key fobs of precious metal, jewel pins, decoration for footwear, statues, cases for watches, vases; silver ingots, silver alloy ingots, iridium, palladium, tins of precious metal, namely, boxes, cans, containers, flacons, powder boxes, jewel boxes, precious metal buckles for clothing; decorative buttons of precious metal, decorative belt buckles of precious metal, decorative chains of precious metal for trousers, jeans, sweaters, skirts, shirts; ornaments of precious metal for scrunchies and hair ties; jewelry, namely rings, bracelets, necklaces, ear rings, brooches, chain pendants, precious stones; horological and chronometric instruments; accessories for all the aforesaid goods included in this class, namely watch bands and straps

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 018

Class Status: Active

Leather and imitations of leather, and goods made of these materials and not included in other classes, namely leather handbags, sewing bags sold empty, vanity cases sold empty; animal skins, hides; trunks and traveling bags; umbrellas, parasols and walking sticks; saddlery; handbags, bags, namely duffle bags, beach bags, carry-all bags, travelling bags, purses, key wallets, purses and wallets of all kinds of leather and imitation leather

SHINY 0610

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 025

Class Status: Active

Clothing, namely shirts, t-shirts, sweatshirts, tank tops, sweaters, blouses, jerseys, turtle-necks, cardigans, shorts, sweatpants, blazers, pants, jeans, skirts, suits, vests, jackets, coats, parkas, ponchos, swimwear, bikinis, swim trunks, overcoats, robes, underwear, lingerie, stockings, panty hose, scarves, gloves, socks, wristbands; footwear; headwear, all the aforesaid goods of leather, textiles and other materials; belts; suspenders

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 035

Class Status: Active

Advertising; business management; business administration; office functions; advertising and business, in particular publication and dissemination of publicity texts, distribution of goods for advertising purposes, radio and television advertising, cinema advertising, online advertising on a computer network; shop window dressing; the bringing together, for the benefit of others, or a variety of goods, in particular clothing, footwear, headwear and fashion accessories, enabling customers to conveniently view and purchase those goods; the bringing together, for the benefit of others, of a variety of goods, in particular clothing, footwear, headwear and fashion accessories, enabling customers to conveniently view and purchase those goods from a wholesaler; business marketing; market research and analysis; business organization and management consultancy; business organization consultancy, professional business consultancy; franchising in the field of fashion retailing, in particular fashion clothing, namely providing organizational and commercial expertise; business management and administration consultancy relating to corporate identity, namely, franchisee and licensee market appearance, retail store services featuring clothing, footwear, headwear and fashion accessories; mail order services featuring clothing, footwear, headwear and fashion

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

International Class: 042

Class Status: Active

Scientific research and development; technical research and development in the field of fashion retailing; industrial analysis and research services in the field of fashion retailing; design and development of computer hardware and software; legal services; exploitation and licensing of industrial intellectual property rights; licensing of intellectual property rights in the field of fashion retailing, in particular fashion clothing; business interior design

Basis: 66(a)

First Use Date: (DATE NOT AVAILABLE)

First Use in Commerce Date: (DATE NOT AVAILABLE)

ADDITIONAL INFORMATION

Color(s) Claimed: Color is not claimed as a feature of the mark.

SHINY 0611

MADRID PROTOCOL INFORMATION

International Registration Number: 0865347
International Registration Date: 2005-03-16
Priority Claimed: Yes
Date of Section 67 Priority Claim: 2004-09-17
International Registration Status: Request For Extension Of Protection Processed
Date of International Registration Status: 2005-11-10
International Registration Renewal Date: 2015-03-16
Notification of Designation Date: 2005-11-10
Date of Automatic Protection: 2007-05-10
Date International Registration Cancelled: (DATE NOT AVAILABLE)
First Refusal: Yes

PROSECUTION HISTORY

NOTE: To view any document referenced below, click on the link to "Trademark Document Retrieval" shown near the top of this page.

2008-03-11 - Published for opposition
2008-02-20 - Notice of publication
2007-11-26 - Withdrawn From Pub - Og Review Query
2007-11-14 - Law Office Publication Review Completed
2007-11-11 - Approved for Pub - Principal Register (Initial exam)
2007-11-08 - Examiner's amendment mailed
2007-11-07 - Examiner's Amendment Entered
2007-11-07 - Examiners Amendment -Written
2007-10-04 - Non-final action mailed
2007-10-04 - Non-Final Action Written
2007-10-04 - Previous allowance count withdrawn
2007-09-21 - Withdrawn From Pub - Og Review Query
2007-09-07 - Law Office Publication Review Completed
2007-09-06 - Examiner's amendment mailed
2007-09-06 - Approved for Pub - Principal Register (Initial exam)

SHINY 0612

2007-09-06 - Examiner's Amendment Entered
2007-09-06 - Examiners Amendment -Written
2007-07-19 - Non-final action mailed
2007-07-19 - Non-Final Action Written
2007-07-19 - Previous allowance count withdrawn
2007-07-16 - Withdrawn From Pub - Og Review Query
2007-05-07 - Law Office Publication Review Completed
2007-05-07 - Assigned To LIE
2007-04-26 - Notification Of Possible Opposition - Processed By IB
2007-04-17 - Approved for Pub - Principal Register (Initial exam)
2007-04-12 - Notification Of Possible Opposition Sent To IB
2007-04-12 - Notification Of Possible Opposition Created, To Be Sent To IB
2007-03-14 - PAPER RECEIVED
2007-02-23 - PAPER RECEIVED
2007-01-29 - PAPER RECEIVED
2006-07-31 - Non-final action mailed
2006-07-30 - Non-Final Action Written
2006-06-21 - Assigned To Examiner
2006-06-13 - Amendment From Applicant Entered
2006-05-30 - Communication received from applicant
2006-05-30 - PAPER RECEIVED
2005-12-09 - Refusal Processed By IB
2005-11-22 - Non-Final Action Mailed - Refusal Sent To IB
2005-11-17 - Non-Final Action (Ib Refusal) Prepared For Review
2005-11-16 - Non-Final Action Written
2005-11-14 - Assigned To Examiner

SHINY 0613

2005-11-14 - New Application Entered In Tram

2005-11-10 - Sn Assigned For Sect 66a Appl From IB

ATTORNEY/CORRESPONDENT INFORMATION

Correspondent

GRAMM, LINS & PARTNER

Theodor-Heuss-Str. 1

38122 Braunschweig FED REP GERMANY

SHINY 0614

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
TRANSMITTED ELECTRONICALLY TO THE COMMISSIONER FOR
TRADEMARKS - <http://esta.uspto.gov/filing-type.jsp>

By: Mary J. Beenen-Koper
DATE: May 7, 2007

BOX TTAB FEE

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Sexy Hair Concepts LLC

Opposer,

v.

Revlon Consumer Products Corporation

Applicant.

Opposition No. 911 77 132

NOTICE OF OPPOSITION

Honorable Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

In the matter of Trademark Application Serial No. 78/951,958 for the mark "LOST YOUR SEXY?" filed August 15, 2006 and published for opposition in the Official Gazette on February 6, 2007:

Sexy Hair Concepts LLC, a California limited liability company having a place of business at 9232 Eton Avenue, Chatsworth, California 91311 ("Opposer"), believes that it will be damaged by the registration of the mark shown in the above-identified application and hereby opposes the same. The grounds for opposition are as follows:

1. Revlon Consumer Products Corporation, a Delaware corporation ("Applicant"), seeks to register "LOST YOUR SEXY?" as a trademark for use in connection with, hair color, in International Class 3, as evidenced by the publication of said mark in the Official Gazette on February 6, 2007.

SHINY 0615

2. The application herein opposed was filed August 15, 2006 on the basis of intent to use. Applicant claims no date earlier than August 15, 2006 for the purpose of claiming priority.

3. Opposer is and has been engaged in the development, manufacture and sale of hair care products and has built a successful business in connection therewith.

4. Since at least as early as June 15, 1998, Opposer, itself and through its predecessor in interest, has used "SEXY" and "SEXY HAIR" as names and marks and as the dominant element of its names and marks for hair care preparations, including color, dyes, rinses, shampoo, conditioner, gels, sprays and mousses.

5. The nature and extent of Opposer's use of its "SEXY" and "SEXY HAIR" names and marks can be seen at its website, www.sexyhairconcepts.com.

6. Opposer has taken steps to protect the "SEXY HAIR" mark and has secured U.S. Trademark Registration No. 2,403,396 for such mark for hair care preparations as identified therein. Registration No. 2,403,396 is valid and subsisting and incontestable. A copy of the pertinent information about such registration from the PTO database is attached as Exhibit A.

7. Since 1998, Opposer has taken steps to develop a family of "SEXY" marks for hair care preparations, including: "SEXY HAIR;" "BIG SEXY HAIR;" "SHORT SEXY HAIR;" "CURLY SEXY HAIR;" "STRAIGHT SEXY HAIR;" "HEALTHY SEXY HAIR;" "SILKY SEXY HAIR;" and "SEXY HAIR CONCEPTS."

8. Use of the "SEXY" and "SEXY HAIR" names and marks by Opposer has been continuous and commercially significant.

9. Opposer has since prior to August 15, 2006 used "Sexy Hair Concepts" and "Sexy Hair" as trade names as well as marks in connection with its business.

10. Opposer's registered trademark "SEXY HAIR," Opposer's family of "SEXY" marks, and the "Sexy Hair" and "Sexy Hair Concepts" names are inherently distinctive as applied to Opposer's products and business.

11. By virtue of Opposer's continuous use in commerce of its registered "SEXY HAIR" trademark and its family of "SEXY" marks and the "Sexy Hair" and "Sexy Hair Concepts" names in connection with such goods and business, such goods and business have become favorably known to the relevant trade and public under such marks and names.

12. As Opposer is the owner of a subsisting U.S. trademark registration for "SEXY HAIR," priority is not in issue.

13. In the application herein opposed, there are no restrictions on trade channels, so it must be assumed that the goods identified in the application will travel through all trade channels appropriate for goods of that type.

14. Applicant's mark is confusingly similar to Opposer's registered "SEXY HAIR" trademarks and to the family of "SEXY" marks established by Opposer, and to Opposer's "Sexy Hair" and "Sexy Hair Concepts" trade names.

15. Each of Opposer's marks and names, and Applicant's mark, employ the identical term—"SEXY," as the dominant or a dominant element.

16. The goods of Opposer and hair color preparations of Applicant listed in the application herein opposed are essentially the same (hair color, dyes and rinses), or otherwise closely related.

17. Hair care preparations including hair color, dyes and rinses, such as are sold by Opposer and hair color such as is identified in the application herein opposed are customarily marketed through the same and overlapping channels of trade to the same and overlapping classes of purchasers.

18. Applicant's "LOST YOUR SEXY?" trademark applied to hair color as identified in the application herein opposed so resembles Opposer's registered "SEXY HAIR" trademarks, Opposer's family of "SEXY" marks as applied to Opposer's products, and Opposer's "Sexy Hair" and "Sexy Hair Concepts" names as used in connection with Opposer's business, that it is likely to cause confusion, mistake, and/or deception.

19. If Applicant is permitted to register "LOST YOUR SEXY?" as a mark for the hair color set forth in the application, confusion of the relevant trade and public is likely to result, which will damage and injure Opposer.

20. On seeing Applicant's "LOST YOUR SEXY?" mark used in connection with Applicant's hair color, purchasers and potential purchasers are likely to believe in error that such goods are offered by or in association with or under license from Opposer or that Opposer and Applicant are affiliated.

21. Any defect, objection to, or fault found with Applicant's hair color sold under the mark "LOST YOUR SEXY?" would necessarily reflect on and seriously injure the reputation that Opposer has established for its goods and business.

22. If Applicant is granted a registration for the mark herein opposed, it would obtain thereby at least a *prima facie* exclusive right to use the mark for the goods identified in the registration. Such registration would be a source of damage and injury to Opposer.

WHEREFORE, Sexy Hair Concepts LLC prays that registration of the mark of Application Serial No. 78/951,958 be refused and that this opposition be sustained.

The required fee of \$300 may be charged to Deposit Account No. 02-0755 and any overpayment may be credited to this account.

Respectfully submitted,

Dated: May 7, 2007

By: Robert Jacobs-Meadway
Roberta Jacobs-Meadway
Patricia G. Cramer
Troy Larson
BALLARD SPAHR ANDREWS & INGERSOLL, LLP
1735 Market Street, 51st Floor
Philadelphia, Pennsylvania 19103-7599
(215) 864-8201

ATTORNEYS FOR OPPOSER

EXHIBIT A

SHINY 0620

Thank you for your request. Here are the latest results from the TARR web server.

This page was generated by the TARR system on 2007-05-07 14:50:25 ET

Serial Number: 75634213 Assignment Information

Registration Number: 2403396

Mark (words only): SEXY HAIR

Standard Character claim: No

Current Status: Section 8 and 15 affidavits have been accepted and acknowledged.

Date of Status: 2006-06-28

Filing Date: 1999-02-05

Transformed into a National Application: No

Registration Date: 2000-11-14

Register: Principal

Law Office Assigned: LAW OFFICE 104

If you are the applicant or applicant's attorney and have questions about this file, please contact the Trademark Assistance Center at TrademarkAssistanceCenter@uspto.gov

Current Location: 40S -Scanning On Demand

Date In Location: 2006-08-03

LAST APPLICANT(S)/OWNER(S) OF RECORD

1. SEXY HAIR CONCEPTS, LLC

Address:

SEXY HAIR CONCEPTS, LLC
9232 ETON AVENUE
CHATSWORTH, CA 91311
United States

Legal Entity Type: Ltd Liab Co

State or Country Where Organized: California

GOODS AND/OR SERVICES

International Class: 003

Class Status: Active

SHINY 0621

<http://tarr.uspto.gov/servlet/tarr?regser=registration&entry=2403396>

5/7/2007

Hair care products for men, women and children, namely hair shampoos, hair conditioners, hair lotions, hair cremes, hair gels, hair sprays, hair color, hair dyes, hair rinses, hair mousse

Basis: 1(a)

First Use Date: 1998-06-15

First Use in Commerce Date: 1998-12-21

ADDITIONAL INFORMATION

Disclaimer: "HAIR"

MADRID PROTOCOL INFORMATION

(NOT AVAILABLE)

PROSECUTION HISTORY

2006-08-03 - Case File In TIGRS

2006-06-28 - Section 8 (6-year) accepted & Section 15 acknowledged

2006-06-12 - Assigned To Paralegal

2006-03-24 - Section 8 (6-year) and Section 15 Filed

2006-03-24 - TEAS Section 8 & 15 Received

2000-11-14 - Registered - Principal Register

2000-08-22 - Published for opposition

2000-07-21 - Notice of publication

2000-06-03 - Approved for Pub - Principal Register (Initial exam)

1999-12-14 - Letter of suspension mailed

1999-10-18 - Communication received from applicant

1999-08-17 - Non-final action mailed

1999-08-04 - Assigned To Examiner

1999-07-30 - Assigned To Examiner

ATTORNEY/CORRESPONDENT INFORMATION

Attorney of Record

Roberta Jacobs-Meadway

SHINY 0622

<http://tarr.uspto.gov/servlet/tarr?regser=registration&entry=2403396>

5/7/2007

Correspondent

ROBERTA JACOBS-MEADWAY
BALLARD SPAHR ANDREWS & INGERSOLL LLP
1735 MARKET STREET, 51ST FL
PHILADELPHIA PA 19103

SHINY 0623

<http://tarr.uspto.gov/servlet/tarr?regser=registration&entry=2403396>

5/7/2007

UNITED STATES PATENT AND TRADEMARK OFFICE
Trademark Trial and Appeal Board
P.O. Box 1451
Alexandria, VA 22313-1451

ac

Mailed: August 17, 2007

Opposition No. 91177132

Sexy Hair Concepts, LLC

v.

Revlon Consumer Products
Corporation

Answer was due on July 16 2007. A review of the record shows that an answer has not been filed.

This case now comes up for consideration of opposer's motion, filed June 25, 2007, for default judgment against applicant for failure to file an answer. The motion is uncontested.¹

Inasmuch as applicant failed to file an answer in this case, and failed to respond to opposer's motion in any

¹ If a defendant fails to file an answer to a complaint during the time allowed therefor, the Board, on its own initiative, may issue a notice of default allowing the defendant time to show cause why default judgment should not be entered against it. The issue of whether default judgment should be entered against a defendant for failure to file an answer may also be raised by means of a motion filed by the party in the position of plaintiff. In such cases, the motion may serve as a substitute for the Board's issuance of a notice of default.

SHINY 0624

manner, the motion for default judgment is granted. See Trademark Rule 2.127(a). Accordingly, judgment is hereby entered against applicant, the notice of opposition is sustained, and registration to applicant is refused. See Fed. R. Civ. P. 55 and Trademark Rule 2.127(a).

***By the Trademark Trial
and Appeal Board***

I HEREBY CERTIFY THAT THIS CORRESPONDENCE IS BEING
TRANSMITTED ELECTRONICALLY TO THE COMMISSIONER FOR
TRADEMARKS - <http://esita.uspto.gov/filing-type.jsp>

By: Mary J. Bunker Hofer
DATE: May 8, 2007

BOX TTAB FEE

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

Sexy Hair Concepts LLC

Opposer,

v.

Opposition No. 91177174

Revlon Consumer Products Corporation

Applicant.

NOTICE OF OPPOSITION

Honorable Commissioner for Trademarks
P. O. Box 1451
Alexandria, VA 22313-1451

In the matter of Trademark Application Serial No. 77004141 for the mark "FIND YOUR
SEXY" filed September 21, 2006 and published for opposition in the Official Gazette on February
6, 2007:

Sexy Hair Concepts LLC, a California limited liability company having a place of
business at 9232 Eton Avenue, Chatsworth, California 91311 ("Opposer"), believes that it will
be damaged by the registration of the mark shown in the above-identified application and hereby
opposes the same. The grounds for opposition are as follows:

1. Revlon Consumer Products Corporation, a Delaware corporation
("Applicant"), seeks to register "FIND YOUR SEXY" as a trademark for use in connection with
hair coloring preparations, in International Class 3, as evidenced by the publication of said mark
in the Official Gazette on February 6, 2007.

SHINY 0626

2. The application herein opposed was filed September 21, 2006 on the basis of intent to use. Applicant claims no date earlier than September 21, 2006 for the purpose of claiming priority.

3. Opposer is and has been engaged in the development, manufacture and sale of hair care products and has built a successful business in connection therewith.

4. Since at least as early as June 15, 1998, Opposer, itself and through its predecessor in interest, has used "SEXY" and "SEXY HAIR" as names and marks and as the dominant element of its names and marks for hair care preparations, including color, dyes, rinses, shampoo, conditioner, gels, sprays and mousses.

5. The nature and extent of Opposer's use of its "SEXY" and "SEXY HAIR" names and marks can be seen at its website, www.sexyhairconcepts.com.

6. Opposer has taken steps to protect the "SEXY HAIR" mark and has secured U.S. Trademark Registration No. 2,403,396 for such mark for hair care preparations as identified therein. Registration No. 2,403,396 is valid and subsisting and incontestable. A copy of the pertinent information about such registration from the PTO database is attached as Exhibit A.

7. Since 1998, Opposer has taken steps to develop a family of "SEXY" marks for hair care preparations, including: "SEXY HAIR;" "BIG SEXY HAIR;" "SHORT SEXY HAIR;" "CURLY SEXY HAIR;" "STRAIGHT SEXY HAIR;" "HEALTHY SEXY HAIR;" "SILKY SEXY HAIR;" and "SEXY HAIR CONCEPTS."

8. Use of the "SEXY" and "SEXY HAIR" names and marks by Opposer has been continuous and commercially significant.

9. Opposer has since prior to August 15, 2006 used "Sexy Hair Concepts" and "Sexy Hair" as trade names as well as marks in connection with its business.